



[6450-01-P]

DEPARTMENT OF ENERGY

[FE Docket No. 13-04-LNG]

Trunkline LNG Export, LLC; Application for Long-Term Authorization to Export Liquefied Natural Gas Produced from Domestic Natural Gas Resources to Non-Free Trade Agreement Countries for a 25-Year Period

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application) filed on January 10, 2013, by Trunkline LNG Export, LLC (TLNG Export), requesting long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) in an amount up to of 15 million metric tons per annum (mtpa), the equivalent of 730 billion cubic feet (Bcf) per year (Bcf/y) of natural gas (equal to 2 Bcf/day of natural gas), from the LNG terminal in Lake Charles, Louisiana (Lake Charles Terminal). TLNG Export requests this authorization for a 25-year term commencing on the earlier of the date of first export or 10 years from the date the requested authorization is granted.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the **Public Comment Procedures** section no later than 4:30 p.m., eastern time, [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES:

Electronic Filing by email:

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Regular Mail

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Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.)

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SUPPLEMENTARY INFORMATION:

Background

TLNG Export is a Delaware limited liability company with its principal place of business in Houston, Texas. Trunkline LNG Company, LLC (TLNG), an affiliate of TLNG Export, owns and operates the Lake Charles LNG Terminal. TLNG Export will own the proposed liquefaction

facility and hold the LNG export authorization. The owners of TLNG and TLNG Export include Energy Transfer Equity, L.P. (60% owner of both entities) and Energy Transfer Partners, L.P. (40% owner of both entities). As such, the existing Lake Charles Terminal, the proposed liquefaction facility, and the LNG export authorization requested herein would all be under the same ownership structure.

The Federal Energy Regulatory Commission (FERC) authorized construction and operation of the Lake Charles Terminal in 1977, with the original construction completed in July 1981. In 2001, BG LNG Services, LLC (BGLS) entered into a firm services agreement with TLNG for the receipt, storage, and vaporization of LNG at the Lake Charles Terminal. TLNG Export states that, consistent with the firm services agreement with BGLS, TLNG expanded and enhanced the Terminal through the construction of additional storage capacity, additional gas-fired vaporization capacity, an additional marine berth, ambient air vaporization equipment, and natural gas liquids extraction capability. TLNG Export further states that the Lake Charles Terminal today has a firm sustained send-out capacity of 1.8 Bcf/d of natural gas (13.7 mtpa of LNG); a peak send-out capacity of 2.1 Bcf/d; and four LNG storage tanks with a combined capacity of approximately 2.7 million barrels (approximately 9.0 bcf)..

The amount of LNG sought to be exported from the Lake Charles Terminal in the current Application is the same amount for which export authorization is being sought by Lake Charles Exports, LLC (LCE) in a separate application filed May 6, 2011, and amended May 26, 2011, in DOE/FE Docket No. 11-59-LNG.¹ TLNG Export's Application for export authority in the current proceeding, therefore, is non-additive to the LCE export authorization request – that is, TLNG Export is not seeking to export any additional volumes of LNG from the Lake Charles Terminal

¹ On July 22, 2011, the DOE/FE approved that portion of the application seeking to export LNG to FTA nations. The non-FTA portion of the application is currently pending. See *Lake Charles Exports, LLC*, DOE/FE Order No. 2987 (July 22, 2011).

beyond that sought by LCE in Docket No. 11-59-LNG. Instead, TLNG Export states that it is simply maximizing optionality in order to expand the potential customer base for LNG exports from the Lake Charles Terminal.

TLNG Export states that it, along with TLNG, is currently developing plans to modify the existing facilities at the Lake Charles Terminal to permit LNG to be loaded from the terminal's storage tanks onto vessels berthed at the existing marine facility. TLNG Export states that it is also developing plans to install liquefaction facilities that would permit gas to be received by pipeline at the terminal and liquefied for subsequent export. Thus, on March 30, 2012, TLNG Export, TLNG, and Trunkline Gas Company, LLC submitted a Request to Initiate FERC Pre-Filing Review Process in FERC Docket No. PF12-8-000. TLNG Export states that the FERC issued a letter approving the request to initiate the pre-filing process on April 6, 2012.²

TLNG Export states that the long-term export authorization sought in this Application, like that sought in the LCE application, is necessary in order to permit TLNG Export to proceed to incur the substantial cost of developing the liquefaction and export project. Any modifications to the Lake Charles Terminal would be subject to FERC approval.³ TLNG Export states that following the completion of the project, the Lake Charles Terminal will be able to receive LNG for import and export or deliver LNG for export, and its peak and sustained send-out capabilities will not be affected.

TLNG Export states that in order to maximize optionality at the Lake Charles Terminal to address customer needs, it seeks broader authority than that sought by LCE. TLNG Export states

² Letter re: Approval of Pre-Filing Request, FERC Docket No. PF12-8-000 (April 6, 2012).

³ TLNG Export states that as with all the prior activities at the Lake Charles Terminal, FERC would only approve any such modifications once all National Environmental Policy Act requirements had been satisfied fully. *See e.g. Trunkline LNG Company, LLC*, 100 FERC ¶ 61,217 (2002), *order denying reh'g and granting authorization under Section 3 of the NGA*, 101 FERC ¶ 61,300 (2002), *order denying reh'g*, 102 FERC ¶ 61,306 (2003), *order amending certificate*, 105 FERC ¶ 61,137 (2003).

that LCE requested authorization to export LNG on its own behalf or as agent for BGLS.⁴ Here, in addition to entering into long-term natural gas supply or LNG export contracts, TLNG Export states that it may also enter into Liquefaction Tolling Agreements (LTA), under which individual customers who hold title to natural gas will have the right to deliver that gas to TLNG Export and receive LNG. TLNG Export seeks to export this LNG on its own behalf and also as agent for third parties under contracts to be executed on a date that is closer to the date of first export. TLNG Export contemplates that the title holder at the point of export⁵ may be TLNG Export or one of TLNG Export's customers, or another party that has purchased LNG from a customer pursuant to a long-term contract.

TLNG Export requests authorization to register each LNG title holder for whom TLNG Export seeks to export as agent, with such registration including a written statement by the title holder acknowledging and agreeing to comply with all applicable requirements included by DOE/FE in TLNG Export's authorization, and to include those requirements in any subsequent purchase or sale agreement entered into by that title holder. TLNG Export also states that it will file under seal with DOE/FE any relevant long-term commercial agreements between TLNG Export and such LNG title holder, including LTAs, once they have been executed.

TLNG Export states that although both TLNG Export and LCE are seeking authorization to export LNG from the Lake Charles Terminal, TLNG Export is separate and apart from LCE and will have no impact on LCE or its authorization. TLNG Export states that neither TLNG Export nor its parent companies have a controlling ownership share of LCE. TLNG will allocate export quantities between LCE and TLNG Export to ensure that the total exports from the Lake Charles

⁴ The DOE/FE approved that portion of the application seeking to export LNG to FTA nations. *See Lake Charles Exports, LLC*, DOE/FE Order No. 2987 (July 22, 2011).

⁵ "LNG exports occur when the LNG is delivered to the flange of the LNG export vessel." *See Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, DOE/FE Order No. 2913 at n.4 (February 10, 2011); *Dow Chemical Company*, FE Order No. 2859 at 7 (October 5, 2010).

Terminal do not exceed the total quantity of exports authorized for the Lake Charles Terminal, *i.e.* the total of exports allocated between LCE and TLNG Export will not exceed 15 mtpa (approximately 730 Bcf/y).

Current Application

In the instant Application, TLNG Export seeks to export LNG by vessel from the Lake Charles Terminal to 1) any country with which the United States currently has, or in the future will have, a Free Trade Agreement (FTA) requiring the national treatment for trade in natural gas, and 2) as relevant here, any country with which the United States does not have an FTA requiring national treatment for trade in natural gas (non-FTA countries) with which trade is not prohibited by U.S. law or policy. TLNG Export seeks to export this LNG on its own behalf and also as agent for third parties. TLNG Export requests that this authorization commence on the earlier of the date of first export or 10 years from the date the authorization is issued.

The portion of the Application that seeks authorization to export domestically produced LNG to non-FTA countries will be reviewed pursuant to Section 3(a) of the Natural Gas Act as amended and is the subject of this Notice. The portion of the Application that seeks authorization to export domestically produced LNG to FTA countries has been reviewed pursuant to Section 3(c) of the Natural Gas Act, as amended.⁶

TLNG Export states that the source of the natural gas proposed for export will come from the United States natural gas pipeline system. While TLNG Export anticipates that sources of

⁶ On March 7, 2013, the DOE/FE approved that portion of the application seeking to export LNG to FTA nations in DOE/FE Order No. 3252 in FE Docket No. 13-04-LNG.

natural gas will include Texas and Louisiana producing regions and the offshore gulf producing regions,⁷ it states that the natural gas to be exported may be produced throughout the United States.

Public Interest Considerations

TLNG Export states that its proposed non-FTA authorization should be granted by DOE/FE under Section 3(a) of the NGA. TLNG Export states that in evaluating the “public interest” the DOE/FE, consistent with its Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas, examines whether “domestic supply shortages or domestic security needs overcome the statutory presumption that a proposed export is not inconsistent with the public interest.”⁸ While the Policy Guidelines deal specifically with imports, the DOE/FE has found that the principles are applicable to exports.⁹

TLNG Export states that in 2012, the DOE commissioned a study by NERA Economic Consulting on the macroeconomic impacts of LNG exports from the United States.¹⁰ TLNG Export states that the NERA Study’s findings are in line with the conclusions of the Deloitte Study¹¹ and both support approval of the instant Application to export LNG from the Lake Charles Terminal. TLNG Export states that the NERA Study concluded that across all scenarios studied, “the U.S. was projected to gain net economic benefits from allowing LNG exports.”¹² TLNG

⁷ Insofar as TLNG Export may seek to export natural gas produced on the outer continental shelf, the export of such natural gas may be subject to the Outer Continental Shelf Lands Act, which in relevant part provides: “Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.” 43 U.S.C. 1354. DOE expresses no opinion regarding the applicability of this provision of law to export operations which Trunkline is planning to undertake.

⁸ Sabine Section 3(c) Order at 5; Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas, 49 Fed. Reg. 6,684 (February 22, 1984) (“Policy Guidelines”).

⁹ *Phillips Alaska Natural Gas Corp. and Marathon Oil Co.*, DOE/FE Order No. 1473 at 14.

¹⁰ NERA Economic Consulting, *Macroeconomic Impacts of LNG Exports from the United States* (Dec. 5, 2012), available at <http://fossil.energy.gov/programs/gasregulation/LNGStudy.html> (“NERA Study”).

¹¹ Deloitte Center for Energy Solutions and Deloitte MarketPoint LLC, *Made in America – The Economic Impact of LNG Exports from the United States*, available at

http://www.deloitte.com/view/en_US/us/Services/consulting/9f70dd1cc9324310VgnVCM1000001a56f00aRCRD.htm

¹² NERA Study at 1.

Export states that the NERA Study further concluded that “for every one of the market scenarios examined, net economic benefits increased as the level of LNG exports increased.”¹³ TLNG Export states that although the NERA Study found that United States natural gas prices increase when LNG is exported, “the global market limits how high U.S. natural gas prices can rise under pressure of LNG exports because importers will not purchase U.S. exports if U.S. wellhead price rises above the cost of competing supplies.”¹⁴

TLNG Export states that the NERA Study also concluded that natural gas prices in the United States will not rise to the levels observed in other parts of the world.¹⁵ TLNG Export states that the NERA Study found that even in the scenarios where unlimited exports were permitted, the wellhead price in the United States remained below the import price in Japan, for example, where the United States sends some of its exports.¹⁶

TLNG Export states that both the Deloitte Study and the NERA Study point to net positive benefits from allowing exports of LNG from the United States. TLNG Export asserts that LNG exports will not have a material adverse impact on domestic natural gas prices. TLNG Export states that, accordingly, the proposed export is not inconsistent with the public interest. The Application has a more complete discussion of TLNG Export’s public interest analysis.¹⁷

Environmental Impact

TLNG Export states that presently, the Lake Charles Terminal is equipped for and authorized only to receive imports of LNG. The Application indicates that TLNG Export and TLNG will file an application with FERC for authorization to modify the existing authorized

¹³ *Id.* The NERA Study noted that “even with exports reaching levels greater than 12 Bcf/d and associated higher prices than in constrained cases, there were net economic benefits from allowing unlimited exports in all cases.” See *Id.* at 6.

¹⁴ *Id.* at 2.

¹⁵ *Id.* 76.

¹⁶ *Id.*

¹⁷ Application at 8-22.

import facilities for exports, in accordance with NGA Section 3 and subpart B of part 153 of the Commission's Regulations, 18 C.F.R. § 153.4 *et seq.*, and Trunkline will file a concurrent application for authorization to construct additional pipeline facilities necessary to provide feed gas to the proposed liquefaction facility with FERC under NGA Section 7 and part 157 of the Commission's Regulations, 18 C.F.R. Part 157.¹⁸ On March 30, 2012, TLNG Export, TLNG, and Trunkline submitted a Request to Initiate FERC Pre-Filing Review Process in FERC Docket No. PF12-8-000. In the Request, TLNG Export, TLNG, and Trunkline indicated that they plan to file the FERC applications in March 2013. TLNG Export states that on April 6, 2012, FERC issued a letter approving the request to initiate the pre-filing process for the liquefaction project and pipeline facilities.

Regarding the instant proposed export to non-FTA countries, TLNG Export requests that the DOE/FE issue the export authorization to non-FTA countries conditioned on the FERC's completion of its NEPA review and approval of the facility construction. TLNG Export states that DOE/FE routinely issues orders with such a condition.¹⁹

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3 of the NGA, as amended, and the authority contained in DOE Delegation Order No. 00-002.00L (April 29, 2011) and DOE Redefinition Order No. 00-002.04E (April 29, 2011). In reviewing this LNG export Application, DOE will consider any issues required by law or policy. To the extent determined to be relevant or

¹⁸ See, e.g., *Cameron LNG, LLC*, 134 FERC ¶ 61,049 (2011) (FERC amends prior NGA Section 3 import authority to add the additional purpose of exporting LNG).

¹⁹ See e.g., *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961 at 41 (May 20, 2011); *Yukon Pacific Corp.*, ERA Docket No. 87-68-LNG, Order No. 350 (November 16, 1989) ("The DOE believes that energy projects can and must be undertaken consistent with environmentally acceptable practices. To ensure this result, the DOE is attaching a condition to the export approval that all aspects of the export project must be undertaken in accordance with the appropriate environmental review process and must comply with any and all preventative and mitigative measures imposed by Federal or State agencies."); see also *Rochester Gas and Electric Corp.*, FE Docket No. 90-05-NG, Order No. 503 (May 16, 1991).

appropriate, these issues will include the impact of LNG exports associated with this Application, and the cumulative impact of any other application(s) previously approved, on domestic need for the gas proposed for export, adequacy of domestic natural gas supply, U.S. energy security, and any other issues, including the impact on the U.S. economy (GDP), consumers, and industry, job creation, U.S. balance of trade, international considerations, and whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this Application should address these issues in their comments and/or protests, as well as any other issues deemed relevant to the Application.

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Due to the complexity of the issues raised by the Applicants, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, notices of intervention, or motions for additional procedures.

Public Comment Procedures

In response to this notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention, as applicable. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests,

comments, motions to intervene or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) e-mailing the filing to fergas@hq.doe.gov with FE Docket No. 13-04-LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office Natural Gas Regulatory Activities at the address listed in ADDRESSES. The filing must include a reference to FE Docket No. 13-04-LNG; or (3) hand delivering an original and three paper copies of the filing to the Office of Natural Gas Regulatory Activities at the address listed in ADDRESSES. The filing must include a reference to FE Docket No. 13-04-LNG.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official

record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application filed by TLNG Export is available for inspection and copying in the Office of Natural Gas Regulatory Activities docket room, Room 3E-042, 1000 Independence Avenue, S.W., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address:

<http://www.fe.doe.gov/programs/gasregulation/index.html>.

Issued in Washington, D.C., on March 14, 2013.

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Office of Fossil Energy

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